

84TH CONGRESS
2d Session

HOUSE OF REPRESENTATIVES

REPORT
No. 1794

MRS. ELIZABETH BINGHAM

FEBRUARY 21, 1956.—Committed to the Committee of the Whole House and ordered to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 2473]

The Committee on the Judiciary to whom was referred the bill (H. R. 2473), for the relief of Mrs. Elizabeth Bingham, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass. The amendment is as follows:

On page 1, line 6, strike out "\$10,335.25" and insert in lieu thereof "\$2,700.00".

PURPOSE

The purpose of the proposed legislation, as amended, is to pay Mrs. Elizabeth Bingham, of Bushnell, Fla., the sum of \$2,700 in full settlement of all claims against the United States as compensation for damage to her property in Sumter County, Fla., by United States Army personnel.

STATEMENT OF FACTS

From April 10, 1943, to October 21, 1946, land owned by Mrs. Bingham in Sumter County, Fla., was used by units of the United States Army. The original occupancy was under an entry permit from Mrs. Bingham. Subsequently a formal lease (No. W09-026-ENG-675) covering 245 acres of Mrs. Bingham's property was executed. Under this lease the Government was obligated to return the premises in as good condition as that existing at the time the lease was entered into, reasonable wear and tear being excepted. Subsequently 40 acres of this land were returned to Mrs. Bingham, and the balance of 205 acres remained under the lease to the Government until October 21, 1946.

At the time the lease was terminated, Army facilities including some metal matting used for airport runways were removed. Some lime-

stone fill used as stabilization for the runways was left in place at Mrs. Bingham's request. At the time the amount of \$3,664.75 was paid to Mrs. Bingham as the cost of the physical restoration of her property, and as a settlement under the terms of the lease.

The report of the Department of the Army to this committee recognizes that in arriving at the settlement figure at the termination of the lease the cost of removing the limestone fill was not taken into consideration. In view of this the Army indicated that the amount of \$2,700 would cover the cost of such removal. The committee after reviewing the facts set forth in the Army report and in the affidavits appended to this report, finds that Mrs. Bingham is entitled to the amount of \$2,700. It is recommended that the bill be amended to provide for a payment of this amount, and that the amended bill receive favorable consideration.

It has been demonstrated to the committee that legal services have been rendered in connection with this matter, and therefore the bill contains the customary attorney's fee proviso.

EAST LIVERPOOL, OHIO, July 3, 1954.

In re Elizabeth Bingham.

Hon. A. S. HERLONG,

Florida Representative in Congress,

House Office Building, Washington, D. C.

DEAR SIR: I am writing you again touching the damage to the property of Mrs. Elizabeth Bingham in Sumter County, Fla. I was unable to make any headway in getting the matter looked up so I made a personal trip to Florida and took charge of the matter myself.

I interviewed a number of witnesses and took affidavits from each of them. I find that the damage was even greater than I had anticipated. The leading elements of damage were five houses either completely destroyed or put in such bad condition that it was improbable or impracticable to restore them, and they were not used afterward. The largest house, a seven-room house, was completely destroyed and no signs left of it. Others were torn down, windows torn off, doors taken away, and houses torn off their foundation and another element of damage is the runway. I find that this covers slightly over 9 acres but is so distributed over the farm and cuts the farm up so much that it is a great element of damage. There is no absolute way to estimate the amount of timber taken, but we do know, and can easily prove, that they installed a sawmill on Mrs. Bingham's property, cut all the best of her timber, operated for over a month and hauled lumber away and in the end put toppings and brush promiscuously over the premises. There are a number of things besides this, but these are the worst elements of damage.

I believe I showed you a letter that was forwarded 11 years ago by Mr. Love, the assistant cashier of the First National Bank in Leesburg, in which he outlined the damages to the Government. I took this letter as a basis of damage and in my affidavits had 3 or 4 of my best witnesses who were familiar with the buildings before and after the occupation examine this letter and say that they believe the outline of damages was reasonable. I am inclined to think that we should ask for \$12,000 damages in the bill instead of \$10,000.

I have been somewhat delayed in getting this information together, but I spent 5 days in the vicinity working it up and getting it in shape. Everybody in that neighborhood seems to be in sympathy with Mrs. Lizy, as they call her, and think she has had a very raw deal.

I have all these affidavits executed and signed except one which is very important. It is George Franklin, a close neighbor. I talked to Franklin a couple of times, and we agreed on what to say in his affidavit, but he left home for a week, and I did not get it signed. I am expecting it to be sent to me any day now.

What shall I do with these affidavits? Shall I send them to you and must they be filed when the bill is filed? I think that you will no doubt want to go over them before you introduce the bill. I have seven affidavits, and I am expecting the one from George Franklin within a day or two. One particularly good affidavit is that of the taxman in Sumter County. Mr. Wheeler. Mr. Wheeler assured me

that he was familiar with Mrs. Bingham's property both before and after the occupation. He says in his affidavit he examined a copy of the letter sent by Mr. Love to the Government and that he believes the estimate of damages in that letter were fair and just. Shall I send these eight affidavits to you for your personal examination before any bill is introduced?

Touching the matter of the damage to the colored lady, Mrs. Florence Edwards, I find that there is about a one and a half acre of runway on her 15-acre patch, that the runway cuts her acreage in two and otherwise disfigures it and that they have taken all her usable pine timber. My best judgment is that her damage would be \$500. I do not have affidavits in her case but can get them a little later as I have in mind the people who will furnish them.

I understand quite well that the big hurdle in Mrs. Bingham's case is the fact that she received \$3,660 by way of damage. Yet she was told by the representative of the Government that she better take it, that she might get nothing if she took it into court and that it would probably be drawn out for years. There is positively no justice in this kind of representation to a woman of Mrs. Bingham's age and to my mind it smells very much like fraud.

Mr. West is with me in this matter and suggested my taking it up in the first instance, and I find that all the men about the courthouse are also very much in sympathy.

Yours very truly,

HARRY BROKAW,
Attorney at Law.

AFFIDAVIT IN SUPPORT OF CLAIM FOR DAMAGES OF ELIZABETH BINGHAM

STATE OF FLORIDA

County of Sumter ss.:

I, Elizabeth Bingham, being first duly sworn, depose and say that I am the owner of 245 acres of ground which was leased to the United States Government for a term commencing April 10, 1943, and extending to sometime in 1946.

During the time of Government occupancy, five of my houses used by tenants were completely torn down, or so badly damaged that it was impossible or impractical to repair so that their use was completely lost to me.

In my home property, which was for a portion of the time used as officers quarters, a locked room which was reserved by me to store personal articles, was broken into and my personal belonging, including keepsakes, heirlooms, pictures, furniture, and much other property, was broken into and my goods were lost, stolen, carried away, and scattered so that it was impossible to find them.

A sawmill was installed on my property so leased, and the same was operated for more than a month and the finest and best of my pine timber was taken without any color of right, while no attempt whatever was made to apprise me of the amount taken, or to pay for same. The brush and debris from the said cutting was left on the ground with no attempt whatever taken to clear or clean up.

I further say that the Government forces established a flying field on my premises, with runways, parking strips and places for airplanes to land and take off, the whole covering more than 9 acres actual surface but so arranged as to cut up the whole place badly. The surface of said park strips, runways, and takeoffs are like a solid pavement upon which nothing will grow.

Below is a summary of the property on my place at the beginning of the Government occupancy. It is copied from the Government joint survey and made by the Government. Said report is herein attached and marked "Exhibit A."

This property set forth above was all in good condition and usable. It was all lost to me entirely and has not been used by me since the Government occupation. The use of my entire property has been lost to me with the exception of my home which was badly used and neglected during the occupation.

I have been given by way of damages the sum of \$3,664.75 and was told by the agent making the offer as follows:

"You better take it. I know it is not enough but it will take years to get it through court and you may never get anything."

ELIZABETH BINGHAM.

Sworn to before me and subscribed in my presence this 14th day of June 1954.
[SEAL]

CURTIS BEVILLE,
Notary Public.

My commission expires December 3, 1956.

JOINT SURVEY AND INSPECTION REPORT (LAND AND IMPROVEMENTS)

1. It is hereby understood and agreed that the statements in paragraphs 2 and 3 below contain a correct description of the condition of the following-described lands and improvements which are covered by a lease between the undersigned owner and the United States of America, and this report shall constitute evidence of the condition of the premises existing at the time of entry thereon by the Government.

Certain parcels or tracts of land with improvements thereon lying and being situate in the county of Sumter, State of Florida, more particularly described as follows:

Tract No. 2: All of the $S\frac{1}{2}NE\frac{1}{4}$, the $N\frac{1}{2}SE\frac{1}{4}$, less the $SE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$, the $E\frac{1}{4}SW\frac{1}{4}SE\frac{1}{4}$, the $S\frac{1}{2}NE\frac{1}{4}SW\frac{1}{4}$, and the $SW\frac{1}{4}SW\frac{1}{4}$ sec. 2, T. 21 S., R. 22 E., comprising 240 acres, more or less; and

Tract No. 17: All of the $S\frac{1}{2}SE\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}$ sec. 10, T. 21 S., R. 22 E., comprising 5 acres, more or less.

2. The subject tracts of land are located approximately $2\frac{1}{4}$ miles northeast from Bushnell, Fla. Bushnell is the county seat of Sumter County and has a population of approximately 1,000. A number of years ago a large part of the land in the community was being cultivated to field and truck crops; however, after the Jumper Creek Drainage District constructed canals, it was found that considerable of the land was being overdrained. At this time most of the land is being used for the grazing of range cattle, only patch farming being carried on. It is 1 to 2 miles to a paved road and access is by sand trails.

Tract No. 2: The subject tract of land is planted to field and truck, crops, and some is idle. The balance is pasture and woods, with just a little commercial timber. Some of the fields have been cropped until the land is very thin. The topography is level to undulating and the soils consist principally of Blanton Portsmouth and Orlando fine sands. The land is adapted to the production of field and truck crops, but irrigation is new for the latter, and the yields for the field crops would be light on considerable of the fields.

Tract No. 17: This tract is about 1 mile from a paved road. Part of it has been cultivated at one time but it is now an open pasture. The topography is level, and the soil is Blanton fine sand. Access to the tract is by sand trails. It is adapted for grazing land to be used with other land, or for a small homesite.

3. On the entire tracts there are no improvements except as indicated below:

TRACT NO. 2

1. Frame dwelling, 36 by 30, 33 by 12, with metal and shingle roof and wood-block foundation.

2. Frame tenant house, 36 by 14, 15 by 14, with metal roof and rock foundation.

3. Box tenant house, 18 by 16, with shingle roof and wood-block foundation.

4. Box tenant house, 36 by 15, with shingle and metal roof and brick foundation.

5. Box tenant house, 40 by 30, with metal roof and brick foundation.

6. Box barn and stall, 20 by 12, with shingle roof and rock foundation.

7. Box smokehouse, 18 by 12, with metal roof and wood-block foundation.

8. Two 4-inch bored wells, which have been completely destroyed.

9. Box dwelling, 36 by 15, 20 by 12, with metal roof and rock-and-brick foundation.

10. Box crib and stalls, 24 by 16, with metal and board roof and rock foundation.

11. Box smokehouse, 12 by 10, with metal roof and wood foundation.

12. Two 6-inch bored wells, which have been completely destroyed.

13. Six $1\frac{1}{2}$ -inch bored wells, which have been completely destroyed.

14. One and one-half miles of fencing, which the lessor is permitted to remove.

15. Ten acres of irrigation system, which the lessor is permitted to remove.

16. Frame dwelling, 48 by 14, 42 by 33, with double porches on 2 and 3 sides, metal roof, and brick foundation.

17. Box tenant house, 33 by 16, with metal and shingle roof and wood-block foundation.

18. Box barn, 44 by 34, with metal roof and rock foundation.

19. Box garage, 22 by 20, with metal roof and brick foundation.

20. Frame storage house, 14 by 12, with metal roof and brick foundation.

21. Box smokehouse, 16 by 12, with metal roof and rock foundation.

22. Box poultry house, 18 by 12, with metal roof and rock foundation.

23. Box feed and storage house, 22 by 20, with metal roof and rock foundation.

24. Box woodhouse, 10 by 9, with metal roof and rock foundation.

TRACT NO. 17

No improvements.

4. This survey and inspection report is to be attached to and made a part of the lease covering the property dated September 15, 1943.

Mrs. E. A. BINGHAM (Widow), Lessor.

For the Government:

NEWTON D. W. CHAPMAN,
Associate Administrative Assistant.

STATE OF FLORIDA,

County of Sumter:

Before me, the undersigned authority, duly authorized to take acknowledgments and administer oaths, this day personally appeared J. C. Morrison, to me well known, who, being first duly sworn, deposes and says:

1. That he has been a resident and citizen of the county of Sumter for the past 30 years and is over the age of 21 years.

2. That he was personally acquainted with C. W. Townes, who departed this life on the 5th day of May 1938, and whom he had known for 30 years immediately preceding his death.

3. That upon his death C. W. Townes left surviving him his sole heir, a sister, Mrs. E. A. Bingham.

J. C. MORRISON, Deponent.

Witness to signature:

FRED PATTERSON.

Subscribed and sworn to before me this 27th day of September 1943.

NEWTON D. W. CHAPMAN, Notary Public.

My commission expires November 4, 1946.

AFFIDAVIT IN SUPPORT OF CLAIM FOR DAMAGES OF ELIZABETH BINGHAM

STATE OF FLORIDA,

County of Sumter, ss:

John Morrison, being first duly sworn, says that he is a resident of Leesburg, Fla. Affiant says that he is acquainted with the property of Elizabeth Bingham in Sumter County, Fla., which was from September 1943 leased to the United States Government until some time in 1946 for military purposes. Affiant says that he grew up on said property and was a resident there until about 1939, or 4 years before the Government occupation, and that he was familiar with all the buildings on said property and knew their construction.

Affiant says that five houses or dwellings on said property were torn down during said occupation by the Government forces or so badly damaged that they were not habitable and that it was not practical to repair them.

Affiant says that the largest of said houses was completely destroyed and all the lumber removed from the vicinity. The smaller houses were either torn down, or partitions removed, doors torn off, and windows broken out. Affiant says that he examined said buildings after removal of Government forces.

Affiant further says that he has examined a schedule of damages submitted to the Government in a letter written by William M. Love, assistant cashier of the First National Bank in Leesburg, Fla., under date of February 18, 1944, [exhibit A] and that he verily believes that said letter and claim is a conservative estimate of the damages to said properties mentioned, sustained by reason of the governmental occupation.

JOHN MORRISON.

Sworn to before me and subscribed in my presence this 14th day of June A. D. 1954.

[SEAL]

DOWELL L. KELLEY,
Justice of the Peace.

EXHIBIT A

FEBRUARY 18 1944.

Re lease between Mrs. E. A. Bingham and the United States of America
No. W09026 2ng-675 (negotiated lease)

FINANCE OFFICER, UNITED STATES ARMY.

Atlanta, Ga.

DEAR SIR: Acting upon the request of Mrs. E. A. Bingham who is a valued customer of this bank we are writing you requesting payment of \$3,500 representing the sum as admitted damages indicated in paragraph 4 of the lease which is dated September 15 1943.

Mrs. Bingham also wishes a report made of damages to the property in the sum of \$14,000 itemized as follows:

1. Damage to Mrs. Bingham's home located in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ sec. 2 T. 21 R. 22-----	\$1, 000
2. Building known as the Mullens house located in the NW $\frac{1}{4}$ SE $\frac{1}{4}$ sec. 2 T. 21 R. 22-----	3, 000
3. Building known as the Stephens house located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ sec. 2 T. 21 R. 22-----	6, 000
4. Building known as the Stinson house located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ sec. 2 T. 21 R. 22-----	600
5. Building known as the Reese house. located in the SW $\frac{1}{4}$ NE $\frac{1}{4}$ sec. 2. T. 21 R. 22-----	1, 000
6. Building known as the Richardson house, located in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ sec. 2, T. 21, R. 22-----	400
7. Damage to timber (the lessee erected a sawmill on this property and has cut and used the best grade of timber)-----	2, 000
Total-----	14, 000

Will you kindly notify the lessor, Mrs. E. A. Bingham, of Center Hill, Fla., where it will be necessary for her to file the proper claim for the damages outlined.

Since she has been deprived of her entire farming operations, she is in need of funds and is hopeful that an immediate remittance of \$3,500 will be forwarded to her.

Yours very truly,

WM. M. LOVE, Assistant Cashier.

AFFIDAVIT IN SUPPORT OF CLAIM FOR DAMAGES OF ELIZABETH BINGHAM

STATE OF FLORIDA,

County of Sumter, ss:

George Franklin, being first duly sworn, says that he is a resident of Sumter County, Fla., and, further, that he lives on and has property adjacent to the 245-acre tract leased to the United States Government by Mrs. Elizabeth Bingham, also of Sumter County, Fla. Affiant says that he is familiar also with the fact that the Government lease extended from September 15, 1943, for approximately 3 years.

Affiant says that the Government forces, during the term of said lease established a runway, airstrip, and several parking strips on said property, which are still there. Affiant says that the main takeoff or landing area is approximately 200 feet wide and 875 feet long, containing about 4 acres. This part is in the middle of a large field and would have to be worked around in case the field is used for crops or for any other useful purpose. Affiant further says that an additional strip and several side runs used for parking purposes make combined a strip 4,500 feet long and 50 feet wide with an area of about 225,000 square feet, or 5 $\frac{1}{4}$ acres, making a total surface area of a little more than 9 acres. Said runway parking strips and takeoff all cut up the farm of Mrs. Bingham very badly. Affiant says that said strips and runways are as follows:

Some 6 inches of black sand as a base with a top of from 2 to 4 inches of lime rock rolled in tightly, so that the whole has a firm hard surface like a pavement.

Affiant says that upon said property leased there were five houses used as tenant houses, which were either destroyed or so badly damaged by the forces of occupation that they were no longer habitable and that it was impractical to repair them. Affiant says that the largest, an eight-room house, was completely torn down, de-

stroyed, and the lumber taken. The other houses were either torn down and destroyed or partitions were torn out, doors removed, and windows broken. None of the five said houses have been used for homes since the occupation forces were there. Affiant says that he has examined a copy of a letter from William M. Love (exhibit A), at that time an assistant cashier of the First National Bank of Leesburg, Fla., to the finance officer of the United States Army, setting up a claim for damages. Said letter bears date of February 18, 1944. Affiant says that he believes the amounts set forth in said letter are fair, just, and not excessive. A copy of the letter is hereto attached marked "Exhibit A".

Affiant further says that rooms reserved by Mrs. Bingham for the storage of heirlooms, keepsakes, personal effects, and other goods, were broken into and contents stolen, lost and scattered beyond recovery. The house itself was torn up, damaged, and neglected. The letter shown above shows damages amounting to \$1,000, which affiant believes is not excessive.

Affiant says that the lessee or the forces of the Government moved a sawmill onto Mrs. Bingham's property and cut, sawed, and removed all the best of the pine timber on said lease, without making any attempt to purchase same. Affiant says that said sawmill was in operation on said lease and said lumber was being hauled away for a little over a month. Affiant has no record of the number of trees cut or the amount of timber removed, but was familiar with the acres of timber before cut and verily believes that the value of that cut would be in excess of \$2,000.

Affiant further says that no effort was made by the lessee to remove the tops of trees and debris left from the cutting, but that it was left scattered over the place.

G. R. FRANKLIN, *Affiant*.

Sworn to before me and subscribed in my presence this 21st day of June A. D. 1954.

[SEAL]

PAT KELLEY, *Notary Public*.

My commission expires May 19, 1957.

AFFIDAVIT IN SUPPORT OF CLAIM FOR DAMAGES OF ELIZABETH BINGHAM

STATE OF FLORIDA,

County of Sumter, ss:

Fred O. Glenn, being first duly sworn, says that he is a resident of Sumter County, Fla., that he is acquainted with Mrs. Elizabeth Bingham and that he has visited her property, which was from 1943 to 1946 leased to the United States Government for military purposes. Affiant says that he was requested to help in measuring the surface area of airstrip and a runway for airplanes constructed on said leased property.

Affiant says that he found in the middle of a large open field on said Elizabeth Bingham's property a runway 200 feet wide by 875 feet long, containing in area 4 acres. In addition, there was an airstrip constructed with a number of side places for parking, the total strip, including side branches, was 4,500 feet long by 50 feet wide, which contained about 225,000 square feet, or 5½ acres. The whole area of runway and airstrip took a little over 9 acres, but was so placed as to cut the Bingham farm up very badly.

Affiant says that the construction of said airstrip and runway was 6 inches or more of black sand with a hard layer of limerock on top which was from 2½ to 4 inches in thickness. The top presented a solid paved surface.

Affiant says that he has dealt in real estate both in Ohio and in Florida for at least 40 years and feels competent to judge values and damages. Affiant says that he believes said property has been damaged to the extent of \$2,000 by said runways alone, not so much by the loss for all practical purposes of 9 acres, but because Mrs. Bingham's fields and pastures have been so badly cut up by the runways, airstrips, and parking places.

Affiant says that said runways, airstrips, and parking places has been broken through in many places because of underdrainage and other causes making it very dangerous for cattle and animals passing over.

FRED O. GLENN.

Sworn to and subscribed before me and in my presence this — day of June A. D. 1954.

[SEAL]

DOWELL L. KELLEY,
Justice of the Peace.

AFFIDAVIT IN SUPPORT OF CLAIM FOR DAMAGES OF ELIZABETH BINGHAM

STATE OF FLORIDA,

County of Sumter, ss:

Cody Stephens, being first duly sworn, says that he is a resident of Sumter County, Fla. Affiant says that he is familiar with the property owned by Elizabeth Bingham in Sumter County, Fla., and that he occupied as a tenant the seven-room house on said property. Affiant says that he was compelled to leave said property upon the occupation by the Government forces. Affiant says that during the term of said occupancy said house was torn down, completely destroyed, and all of its parts taken away by forces of the Government who had leased and occupied said property. Affiant says that he lived in said house, knew its construction, knew how it was built, and the material therein. Affiant says that he verily believes that the destruction of said house was a damage in the amount of \$8,000 and that it could not have been replaced at that time for that amount.

CODY STEPHENS.

Sworn to before me and subscribed in my presence this 15th day of June A. D. 1954.

[SEAL]

C. BURTON MARSH,
*Clerk, Circuit Court.*By DORIS H. JOHNSON,
Deputy Clerk.

AFFIDAVIT IN SUPPORT OF CLAIM FOR DAMAGES OF ELIZABETH BINGHAM

STATE OF FLORIDA,

County of Sumter, ss:

Stella Eaddy, being first duly sworn, says that she is a resident of Sumter County, Fla., living about 1 mile northeast of Bushnell, Fla. Affiant says that she is a neighbor of Elizabeth Bingham and lives a short distance from the home and property of said Elizabeth Bingham. Affiant further says that she is acquainted with the fact that said property, 245 acres in executed lease to the United States Government from April 10, 1943, for a period of about 3 years.

Affiant further states that she has personal knowledge that, during the term of said lease, the lessee, the United States Government, moved a sawmill onto the said premises of Mrs. Bingham, operated it, cut, sawed, and hauled away timber for a period of more than 1 month. Affiant says that the finest and best of said timber was cut by the Government forces and removed, leaving the treetops and parts of the trees not taken scattered over the premises and over a good part of the 245 acres leased.

Affiant has no accurate method to tell the exact amount of timber cut, but estimates the damages from loss of timber trees and the scattered debris from the trees at over \$2,000.

Affiant further says she knows that during the said occupation a certain 7-room house on the said property was torn down, totally destroyed and the lumber taken by agents of the Government and the Government forces. Affiant was familiar with said house and its construction and verily believes that its value, during the period of said lease was \$6,000 and that it could not have been replaced at that price.

Affiant says that she has examined a letter written by William M. Love [exhibit A], containing a schedule of damages, under date of February 18, 1944, which was submitted to the Government, and that she was familiar with said houses and thinks the amounts of damage set forth are fair and not excessive.

Affiant says further that within her knowledge other houses were either destroyed or damaged, but that she is not familiar with the amount of damage to other houses.

STELLA EADDY.

Sworn to before me and subscribed in my presence this 15th day of June A. D. 1954.

[SEAL]

C. BURTON MARSH,
*Clerk, Circuit Court,*DORIS H. JOHNSON,
Deputy Clerk.

AFFIDAVIT IN SUPPORT OF CLAIM FOR DAMAGES OF ELIZABETH BINGHAM

STATE OF FLORIDA,

County of Sumter, ss:

Alvin C. Richardson, being first duly sworn, says that he is a resident of Sumter County, Fla., and a landowner adjacent to the lands of Elizabeth Bingham in said county and State. Affiant says that during the period from April 10, 1943, to sometime in 1946 the property of said Elizabeth Bingham was leased to the United States of America for military purposes. Affiant says that before and until the Government occupation he was a tenant in a house on said leased premises. Affiant says that during the occupation by the Government five dwelling houses on said lands of Elizabeth Bingham were either torn down and completely destroyed or damaged and left in such a complete condition of disrepair that they were no longer habitable, and it was unpractical to repair them.

Affiant says that the largest, a seven-room house, was completely torn down and removed from the premises, and in others the partitions were removed, the doors torn off, the windows knocked out, and that other evidences of destruction were apparent.

Affiant says that he saw and examined said houses after the occupation and is able to make comparisons in their condition.

ALVIN C. RICHARDSON.

Sworn to before me and subscribed in my presence this the 15th day of June A. D. 1954.

[SEAL]

CURTIS BEVILLE,
Notary Public.

My commission expires December 3, 1956.

AFFIDAVIT IN SUPPORT OF CLAIM FOR DAMAGES OF ELIZABETH BINGHAM

STATE OF FLORIDA,

County of Sumter, ss:

I, Inman Wheeler, being first duly sworn, say that I am a resident of Bushnell, Fla., and that I am the duly elected tax assessor for Sumter County. I further say that I am acquainted with Elizabeth Bingham and have been upon her property, which was leased to the Federal Government for military purposes, many times. I have been on said property both before and after the Government occupation.

I further state that I have examined a letter (exhibit A) written by William M. Love on February 18, 1944, to the Government, a copy of which letter is hereto attached, making claim for damages to houses on Mrs. Bingham's said property. I believe that said claim is not exorbitant, but that it is fair and just.

To my personal knowledge, five of the houses, to wit, those described in paragraphs 2 to 6, inclusive, were either destroyed completely or so badly damaged that they were not fit for habitation. One was thrown off the foundation, doors were removed, and windows broken. The owner has not been able to use said buildings since and all are a loss, being damaged so bad that it was impractical to repair them.

I know that the largest, a seven-room house, was completely torn down and removed from the premises.

INMAN WHEELER.

Sworn to and subscribed before me and in my presence this 14th day of June A. D. 1954.

[SEAL]

CURTIS BEVILLE,
Notary Public.

My commission expires December 3, 1956.

DEPARTMENT OF THE ARMY,
Washington 25, D. C., December 20, 1955.

HON. EMANUEL CELLER,

*Chairman, Committee on the Judiciary,
House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to H. R. 2473, 84th Congress, a bill for the relief of Mrs. Elizabeth Bingham.

The Department of the Army has considered the above-mentioned bill, which provides as follows:

"That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Mrs. Elizabeth Bingham, Bushnell, Florida, the sum of \$10,335.25. Such sum represents the amount which remains equitably due the said Mrs. Elizabeth Bingham from the United States as compensation for damage inflicted upon property owned by her in Sumter County, Florida, by personnel of the United States Army. Such damage, which included the total or partial destruction of five houses, the destruction of timber, the destruction or loss of personal belongings, and the construction of an airfield which rendered large parts of the property unusable, occurred between April 10, 1943, and December 31, 1946, while the property was leased and occupied by the United States Army."

Records of the Department of the Army show that, from April 10, 1943, to October 21, 1946, units of the United States Army used a substantial acreage of land in Sumter County, Fla., owned by Mrs. Bingham. The original occupancy was under an entry permit from Mrs. Bingham. In order that Mrs. Bingham and her tenants might have ample opportunity to harvest growing crops, the formal lease (No. W 09-026-ENG-675) of the property, amounting to 245 acres, was made effective September 15, 1943. Under the terms of this lease the Government was obligated to return the premises in as good condition as that existing at the time the lease was entered into, reasonable and ordinary wear and tear excepted. By a supplemental agreement effective May 1, 1944, 40 acres of this land were returned to Mrs. Bingham, leaving 205 acres under lease to the Government. The lease was terminated effective October 20, 1946, by a second supplemental agreement. The rental originally was at the rate of \$901.50 per year. After release of the 40 acres mentioned above the rate was reduced to \$880 per year.

The Government constructed a portion of a runway of the Bushnell Army Air Field on Mrs. Bingham's property and in addition placed several temporary buildings thereon for the use of units stationed at that field. At the time the lease was originally entered into, Mrs. Bingham was paid the sum of \$1,750 as compensation for the removal of trees and the destruction or relocation of installations necessary to the construction of the runway and its taxiways, which had been accomplished under the entry permit. During the period of the lease an auxiliary dwelling and three of Mrs. Bingham's tenant houses were torn down, all other houses on the property, including her home, were closed, and all troops in the area were prohibited from entering or using them.

It appears that Mrs. Bingham, at the time the lease was entered into, stored some of her personal belongings in a room in her home to which she alone had the key. However, it does not appear that Mrs. Bingham ever made a record of just what property had been left in that room.

When it was determined in 1946 that the property no longer would be required for military purposes, representatives of the Department of the Army (then War Department) discussed its return with Mrs. Bingham. An examination of the property was made with her and an agreement was reached as to the work which would be required to restore the property to its original condition. At that time Mrs. Bingham requested that the metal matting used to surface the runway and the taxiways be removed, but stated that the lime rock fill used as stabilization on the runway and taxiways could remain in place. As Mrs. Bingham had no interest in acquiring any of the buildings placed on the property by the Government, these buildings were removed. The matting was removed and it was determined that the sum of \$3,664.75 was due Mrs. Bingham as the cost of physical restoration of her property. Prior to accepting this amount, Mrs. Bingham discussed the matter with her attorneys who pointed out that the lime rock used as stabilization would be of no value to Mrs. Bingham and actually would be a detriment to the land, as she would be put to the expense of having it removed. However, after further correspondence on the matter the attorneys stated that Mrs. Bingham was being advised to accept the settlement, which she did. Accordingly, the amount of \$3,664.75 was paid to and accepted by Mrs. Bingham in full settlement of the Government's obligation to restore the premises.

During the discussions regarding restoration costs leading up to the agreement with Mrs. Bingham, it appears that she stated that some items of personal belongings had been removed from the locked room in her home in which she had stored them. However, she declined to specify such losses in detail and, therefore, such statements could not be considered as a claim, either in connection with the lease or otherwise. In a subsequent discussion with Mrs. Bingham, she further stated that a number of wooden troughs, used to shelter cucumbers, which had been stacked in the open, at the time the property was turned over to the Government were missing. No information was furnished by her as to their quantity or condition.

In the year following the termination of the lease and the payment of the amount of \$3,664.75 in lieu of restoration, Mrs. Bingham again asserted damages arising out of alleged losses from the locked room in her home, but again declined to file a claim in detail for consideration and processing through administrative claims channels, stating that she was not certain as to what property had been placed in that room. No formal claim ever was filed administratively by Mrs. Bingham in this matter. However, after further complaint was made by her in 1947, the matter was thoroughly investigated. Mrs. Bingham then stated that she recognized that she had no basis for a claim but felt desperate as a result of being a victim of circumstances over a period of years. It appears that many years ago Mrs. Bingham's husband purchased about 1,700 acres of land, including the land leased to the Government. Her husband died in 1920 and thereafter Mrs. Bingham's brother assisted her in the management of her property until his death in 1930. In 1925 a drainage district was organized, her property was intersected by one of the canals and certain assessments were placed on her land which she was unable to pay. As a result of the depression in the 1930's, her property was levied upon and she lost all of it except 360 acres, which includes the land leased by the Government.

Mrs. Bingham was fully compensated for the destruction of improvements, including houses, and for the cutting of timber on her property through the 2 payments, 1 in the amount of \$1,750 for damage which occurred during the period of the entry permit, and the other in the amount of \$3,664.75 for damage during the period of the lease. The latter payment represented the difference between the overall value of her property at the time the lease was entered into in September 1943 and its value upon termination of the lease in October 1946. The fact that the construction of a runway and taxiways for the airstrip had rendered approximately 8 acres of land useless for agricultural purposes was fully taken into consideration in determining the amount to which Mrs. Bingham was entitled. It does not appear, however, that the cost of removing the lime-rock fill for the runway and taxiways was taken into consideration for the reason that Mrs. Bingham, in discussing the return of the property with representatives of the War Department, indicated that she had no objection to leaving this in place. Survey reports show that the cost of removing this lime rock would have amounted to \$2,700. Mrs. Bingham consistently has refused to specify what, if any, of her personal property was lost or missing as a result of the occupancy of her property by personnel of the United States Army. Under such circumstances, it has been impossible for the Government to entertain a claim from her for any such losses or damages and the time within which such a claim could have been entertained administratively long since has expired (act July 3, 1943, ch. 189, 57 Stat. 372, 31 U. S. C. 223b).

With the exception of the expense of the removal of the lime-rock fill and the unspecified alleged losses of personal property, the facts show that Mrs. Bingham has already been fully compensated for all of her losses and damages. There is no basis in law for the payment of any additional compensation to her. She is no more entitled to compensation for the alleged losses of personal property than is any other person who has allowed the time within which such a claim could be filed to expire. Whether she is equitably entitled to any further compensation, based upon the failure of the Government to make allowances for the cost of removal of the lime-rock fill, is a matter which must be left to the equitable determination of the Congress. However, in the event any such award is made, it should include only the cost of such removal, which as stated above would have amounted to \$2,700.

The cost of this bill in its present form would be \$10,335.25. If the amount should be reduced as suggested above, the cost would be \$2,700.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

CHARLES FINUCANE,
Acting Secretary of the Army.

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